

REMARKS/ARGUMENTS

Applicant would like to thank the Examiner for granting the telephonic interview conducted on June 3, 2009. During the interview, Applicant's representative presented proposed claim amendments to the Examiner and explained the difference between Applicant's invention and the cited prior art. In particular, it was discussed that the prior art of record did not teach transmitting content in both a streaming format and an archival at the same time. This distinction is discussed in more details below with specific reference to the outstanding rejections of the claims.

Claims 1 and 24 have been amended to more clearly distinguish from the prior art. In particular, both claims have been amended to recite that delivering of content in both a streaming format and an archival format occurs *simultaneously*. Support for this limitation can be found in the original specification, *inter alia*, at paragraphs [0004] and [0014]. For example, in paragraph [0004] it is explained that:

[S]treaming content may be broadcast to a list of one or more subscribers. Upon receipt of a request from a subscriber to store a particular piece of content that has been broadcast, content in an archival format that allows storage of the content may be provided to the subscriber. In an advantageous aspect of the present invention, *the archival format content may be provided in real-time with the transmission of the content in streaming content format*.

It is clear from the above passage that the archival format content and the streaming content are both provided to the subscriber at the same time (i.e. "in real time with"). Accordingly, the "simultaneously" limitation of claims 1 and 24 is sufficiently supported by the specification.

Claims 1-6, 19-21, 23 and 24 were rejected under 35 U.S.C. 103(a) as being unpatentable over 6,662,231 to Drosset et al. (hereinafter "Drosset") in view of U.S. Patent Application Publication No. 2003/0131353 to Blom et al. (hereinafter "Blom"). For the following reasons, the rejection is respectfully traversed.

Regarding amended claims 1 and 24, neither Drosset nor Blom, nor any combination thereof, teaches, suggests or otherwise renders obvious that "delivering of the particular piece of the content in said archival format occurs *simultaneously with* the transmitting of the content in the streaming content format," as required. Similarly, regarding claim 20, neither Drosset nor Blom, nor any combination thereof, teaches, suggests or otherwise renders obvious that "delivering of the particular piece of the content in the second archival format to the storage

media of the user occurs *concurrently with* the transmitting of the content in the first streaming content format,” as required. According to the present invention, while a user is streaming the content, they can begin downloading an archival copy of the content so that the content may be subsequently played again without further delay (see the specification at paragraph [0014]). As the Office action points out, Drosset teaches offering content to a user for streaming or downloading: “The user may elect to stream the song or album for listening. The feature area may also include a link for purchasing the song or album.” However, there is no teaching or suggestion in Drosset of delivering the same content in both a streaming format *and* an archival format *simultaneously* or *concurrently* as required by the claims. Further, there is no teaching in Blom transmitting content in both a streaming format and an archival format at the same time. To the contrary, Blom describes a different way of permitting storage of “streamed” content by utilizing a so-called “progressive download” in which media is downloaded (rather than streamed), but playback can begin before downloading is complete providing a download with a streaming-like capability. Therefore, if the progressive download described by Blom were used, there would be no need to send content in both streaming and archival formats at the same time. Accordingly, even if the teachings of Drosset and Blom were combined, the “simultaneously” or “concurrently” limitations of claims 1, 20 and 24 would not be taught, suggested or otherwise rendered obvious by the resulting combination. Further, since claims 2-6, 19, 21 and 23 depend from claims 1 and 20, respectively, they are also nonobvious for the same reasons. Therefore, withdrawal of the rejection is respectfully requested.

In consideration of the foregoing analysis, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any fees resulting from this communication, please charge same to our Deposit Account No. 16-0820, our Order No. ACER-45259.

Respectfully submitted,
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